

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE  
LITIGATION

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

THIS DOCUMENT RELATES TO:

ALL ACTIONS

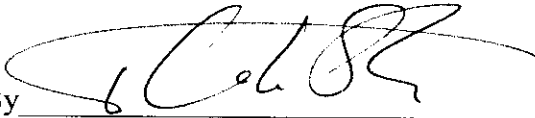
**PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY**

In connection with this Court's deliberation concerning the Motions to Dismiss the Amended Master Consolidated Complaint ("AMCC"), Plaintiffs submit for the Court's consideration a copy of the Memorandum and Order on Defendants' Motion to Dismiss Corrected Consolidated Amended Class Action Complaint and Second Amended Consolidated Complaint issued on November 25, 2003 by Judge Richard G. Stearns in *In Re: Lupron Marketing and Sales Practices Litigation*, MDL No. 1430, (C.A. No. 01-CV-10861-RGS) (D. Mass.). A complete and accurate copy of the aforementioned decision is attached hereto as Exhibit A.

The issues decided by Judge Stearns in the Lupron litigation include: resolution of RICO issues involving allegations of alleged wrongful inflation of average wholesale prices (pp. 11-20), arguments regarding lack of particularity in the context of a RICO claim alleging wrongful AWP inflation (pp. 20-24), RICO enterprise issues (pp. 24-29),

issues relating to RICO causation (pp. 30-31), issues involving detrimental reliance (pp. 31-32), issues involving adequacy to state conspiracy claims (pp. 32-33), issues involving adequacy to plead consumer protection claims (pp. 40-41), and issues relating to statutes of limitations (pp. 44-46).

Dated: December 3, 2003

By 

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**CERTIFICATE OF SERVICE**

I hereby certify that I, Edward Notargiacomo, an attorney, caused true and correct copies of the foregoing Plaintiffs' Notice of Supplemental Authority to be served on all counsel of record electronically, pursuant to Section D of Case Management Order No. 2.

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